S.B.Cr. Misc. Petition No. 839/2005
(Hanuman Mal & Ors. Vs. State of Rajasthan & Anr.)

Date of order : 04/07/2006

HON'BLE MR.H.R.PANWAR, J.

Mr. G.R.Bhari for the petitioners.
Mr. Ashok Upadhyay, public prosecutor for the State.

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioners have challenged the order dated 21.3.2005 passed by Additional Sessions Judge No.1, Bikaner (for short 'the revisional court' hereinafter) in Criminal Revision No.65/2004 whereby the revisional court dismissed the revision petition and upheld the order dated 4.5.2000 passed by Judicial Magistrate, Bikaner (for short 'the trial court' hereinafter) in FIR Case No.32/97.

Heard learned counsel for the petitioners and public prosecutor for the State. I have carefully gone through the orders passed by the trial court as also the revisional court.

A first information report being FIR No. 32/97 was lodged by the non-petitioner No.2 against the petitioners for the offences under Sections 447, 427, 379 and 147 IPC. The police investigated the matter and filed a negative final report being FR

No.13/97. On notice to the complainant-non-petitioner No.2, a protest petition was filed by the complainant and appeared himself as AW-3 and produced two witnesses namely AW-1 Laduram and AW-2 Ganesharam who were said to be eye witnesses.

The trial court on perusal of the police case diary, first information report and statements of witnesses, came to the conclusion that there is ground to proceed against the petitioners for the offences noticed above and accordingly took the cognizance of the offence and issued process vide order dated 4.5.2000. The order dated 4.5.2000 came to be challenged by the petitioner before the revisional court. The revisional court after considering the material on record did not find any error in the order of the trial court and accordingly dismissed the revision petition and affirmed the order of the trial court.

The petitioners have already availed one revision. A second revision is barred by sub-section (3) of Section 397 Cr.P.C. The petitioners seek second revision in the garb of a petition under Section 482 Cr.P.C. From the perusal of the orders of both the courts below, it cannot be said that the orders impugned would result in manifest injustice and abuse of process of the Court. Both the courts below concurrently found prima-

facie case against the petitioners for the offences noticed above. In the circumstances therefore, in my view, there is no ground to interfere in the extra-ordinary jurisdiction under Section 482 Cr.P.C.

The criminal misc. petition lacks merit and is dismissed. Stay petition also stands dismissed.

(H.R.PANWAR),J.

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